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11 **SUPERIOR COURT OF ARIZONA**
12 **COUNTY OF MARICOPA**

13 STATE OF ARIZONA, *ex rel.*, STEPHEN A.)
14 OWENS, Director, Arizona Department of) Case No:
15 Environmental Quality,)
16)
16 Plaintiff,) **COMPLAINT**
17)
17 vs.) (Non-Classified Civil)
18)
18 SAFETY-KLEEN SYSTEMS, INC.)
19 A Wisconsin corporation,)
20)
20 Defendant)

21
22 The State of Arizona (“State”), on behalf of the Director of the Arizona Department of
23 Environmental Quality (“ADEQ”), alleges as follows:

24 1. This civil action is brought under Arizona Revised Statutes (“A.R.S.”) § 49-924
25 and Arizona Administrative Code (“A.A.C.”) R18-8-280(B) as a result of Defendant Safety-
26 Kleen Systems, Inc.’s (hereinafter “Safety-Kleen”) violations of Arizona rules on hazardous

1 waste management and its transportation, storage and disposal permit, effective March 20,
2 2006.

3 **PARTIES, JURISDICTION AND VENUE**

4 2. The State’s relator, Stephen A. Owens, is the Director of the ADEQ.

5 3. This action is brought on behalf of the State pursuant to A.R.S. §§ 49-103(B),
6 49-924(B), and 49-926.

7 4. Defendant Safety-Kleen is a Wisconsin corporation, with its principal place of
8 business at 5400 Legacy Drive, Plano, Texas.

9 5. At all times relevant to the Complaint, Safety-Kleen operated a permitted
10 treatment, storage and disposal facility at 6625 West Frye Road, Chandler, Arizona (the
11 “Facility”).

12 6. The Court has jurisdiction over the subject matter under Article 6, § 14 of the
13 Constitution of Arizona, A.R.S. §§ 12-123, 49-924(B) and 49-926, and A.A.C. R18-8-
14 280(B).

15 7. This Court has personal jurisdiction over this matter because at all times alleged
16 herein Safety-Kleen operated its Facility in Arizona, conducted business in Arizona and the
17 violations alleged occurred in Arizona.

18 8. Venue is proper in this Court pursuant to A.R.S. §§ 12-401(17) and 49-924(B).

19 **GENERAL ALLEGATIONS AND BACKGROUND**

20 9. In accordance with A.R.S. § 49-922, the State created a hazardous waste
21 management program and adopted federal hazardous waste regulations by reference in Title
22 18, Chapter 8, Article 2 of the A.A.C.

23 10. The federal hazardous waste regulations adopted by the State at A.A.C. R18-8-
24 201 through R18-8-280 include significant portions of Title 40, Parts 260 through 266, 268,
25 270, and 273 of the Code of Federal Regulations (“C.F.R.”).

26 11. ADEQ issued Safety-Kleen a treatment, storage and disposal permit, effective
March 20, 2006 (“the Permit”). The Permit will remain effective for a period of ten years
unless revoked or terminated.

1
2 12. The State, through its Hazardous Waste Inspection and Compliance Unit
3 (“HWICU”) conducted an annual treatment, storage and disposal facility compliance
4 inspection on April 5, 2006.

5 13. Based on its observations, HWICU issued a Notice of Violation (“NOV”) on
6 May 11, 2006. The NOV included the following Permit violations, failure to: (i) inspect tank
7 systems in accordance with the inspection schedule and procedures contained in the
8 Preparedness and Prevention Plan; (ii) comply with A.A.C. R18-8-264.A and G that require
9 generators and transporters to submit signed manifests to ADEQ (this was a repeat violation
10 from an earlier NOV issued to Safety-Kleen on July 27, 2005); and, (iii) maintain its
11 contingency plan.

12 **COUNT ONE**

13 **(Violation of Section IV.F.1 of the Permit)**

14 14. The allegations in Paragraphs 1 through 13 are adopted herein and incorporated
15 by reference.

16 15. Section IV.F.I. of the Permit requires Safety-Kleen to inspect its tank systems
17 in accordance with the inspection schedule and procedures contained in its Preparedness and
18 Prevention Plan. Safety-Kleen’s Preparedness and Prevention Plan states “each valve, pump,
19 and flange which is associated with the hazardous waste tanks and their ancillary equipment
20 must be marked and listed on the respective ‘Inspection Log Sheet for Daily Inspection of
21 Storage Tank System’ found in Appendix E-4....”
22

23 16. Safety-Kleen violated its permit by failing to properly tag two 3” flange plugs
24 with RCRA air emission inspection tags. Further, Safety-Kleen had completed inspection
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26

1 logs showing that the flanges had been inspected and were in compliance with the terms of
2 the Permit. Thus, Safety-Kleen violated Permit Section IV.F.1.

3 17. A.R.S. § 49-924(A) allows the State to impose civil penalties if a company
4 engages in a practice that constitutes a violation of the hazardous waste rules or permits,
5 subject to orders of the State.

6 **COUNT TWO**

7 **(Violation of Section II.J of the Permit)**

8 18. The allegations in Paragraphs 1 through 17 are adopted herein and incorporated
9 by reference.

10 19. Section II.J. of the Permit requires Safety-Kleen to comply with manifest
11 requirements of A.A.C. R18-8-264.A and G (40 CFR §§ 264.71, .72 and .76).

12 20. A.A.C. R18-8-264.G requires Safety-Kleen to “within 30 days after the
13 delivery, send a copy of the manifest to the generators [and submit one copy of each manifest
14 to the DEQ in accordance with R18-8-264(I)].”

15 21. After the HWICU conducted its June 15, 2005 inspection of Safety-Kleen, it
16 issued a July 27, 2005 NOV. Part of that NOV required Safety-Kleen to “provide the
17 generator and transporter manifest for the last three years to ADEQ...” Despite this explicit
18 language, Safety-Kleen failed to submit approximately 176 generator or transporter
19 hazardous waste manifests from the June 15, 2005 inspection until the April 5, 2006
20 inspection.

21 22. Safety-Kleen violated this Permit section again when it failed to submit
22 approximately 200 generator and transporter hazardous waste manifests from the previous
23 April 5, 2006 inspection until the March 20, 2007 inspection.

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DATED this ____ day of _____, 2007.

TERRY GODDARD
ATTORNEY GENERAL

By: _____
Jamee Maurer Klein
Assistant Attorney General
Environmental Enforcement Section

#73480

VERIFICATION

STATE OF ARIZONA)
)ss.
County of Maricopa)

Amanda E. Stone, being first duly sworn upon her oath, deposes and says:

1. I am the Director of the Arizona Department of Environmental Quality, Waste Programs Division, and have been delegated the authority to verify Complaints by the Director of the Department.

2. I have read the foregoing Complaint, know the contents thereof, and that on my own knowledge and belief, the matters alleged herein are true, except for those matters alleged on information and belief, and as to those matters, I believe the Complaint to be true.

Amanda E. Stone, Director
Waste Programs Division
Arizona Department of Environmental Quality

SUBSCRIBED AND SWORN TO before me this ___ day of _____, 2007.

Notary Public

My Commission Expires:

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